

REMARKS

Claims 33-34, 36-37, and 39 were pending in this application. Claim 39 has been withdrawn from further consideration by the Examiner. Hence, claims 33-34 and 36-37 remain pending in this application.

Arguments in Support of the Claims

The Examiner repeats his contention that Claims 33 and 36 are anticipated under 35 U.S.C. § 102(b) by Holmberg (US. Patent No. 1,412,784). In maintaining the rejection, the Examiner insists that the edges of the side, top, and bottom walls of the Holmberg safe form a front wall, that the alleged front wall has a door opening, that a door frame is positioned in the alleged door opening, and that a door is mountable in the alleged door frame. The Examiner concludes based on the above rationale that the Holmberg safe satisfies the structural language of the claim. This rejection is respectfully traversed.

The Examiner also repeats his contention that Claims 33-34 and 36-37 are rendered obvious under 35 U.S.C. § 103(a) by Holmberg in view of Speer (U.S. Patent No. 5,493,817). In maintaining the rejection, the Examiner insists that the Holmberg safe is not only a vault, but is inherently a walk-in vault, since the Examiner claims that a child, dog, or other small pet could walk into the safe. This rejection is also respectfully traversed.

Claim Terms Are to Be Given Their Ordinary and Accustomed Meaning

Absent an express intent to impart a novel meaning, terms in a claim are to be given their ordinary and accustomed meaning. *Hockerson-Halberstadt, Inc. v. Avia Group International, Inc.*, 222 F.3d 951, 955, 55, USPQ2d 1487, 1490 (Fed. Cir. 2000). In the present case, Applicants have imparted no special meaning to the recited claim terms “walk-in,” “front wall,”

“door opening,” “door frame,” and “door.” Therefore, the Examiner must construe these terms according to their ordinary and accustomed meaning.

For example, the ordinary and accustomed meaning of the term “front wall” or any “wall” is a protective or restrictive barrier. (See, e.g., The Concise Oxford Dictionary, 10th Edition.) The Examiner may not construe the term wall to mean the edges of other walls or any other such extraordinary or unaccustomed meaning. A wall is simply a wall. Applicants take this opportunity to remind the Examiner that he must view the prior art with the eye of a person having ordinary skill in the art. (See, e.g., *In re Fritch*, 972 F.2d 1260, 1264, 23 USPQ2d 1780, 1782 (Fed. Cir. 1992) “[A] prior art reference is relevant for all that it teaches to those of ordinary skill in the art.”) Applicants respectfully submit that in the present case, no person of ordinary skill in the art reading the text of Holmberg and looking at the specific structure of the Holmberg safe would think that it has a front wall, as that term is ordinarily and customarily used. It is possible that there exists a structure somewhere out there where the edges of the surrounding side walls are so incredibly thick relative to the opening that a person of ordinary skill in the art might view them as forming a wall, but that is not the case here.

Further, the term “walk-in,” when used with a term such as vault, is understood by those having ordinary skill in the art as referring to a room or chamber that is large enough for an average size adult person to walk into. See, for example, the size of the walk-in vault door in the advertisement attached in Appendix A, which shows that a typical walk-in vault door is some 80 inches high and 34 inches wide. This is the ordinary and customary meaning of the term “walk-in.” Applicants respectfully submit that no person of ordinary skill in the art would use the term “walk-in” to refer to a compartment only big enough for a small child, dog, or other small animals, such as the Holmberg safe.

Holmberg Does Not Have a Front Wall or a Door Frame

As stated above, no person of ordinary skill in the art reading the Holmberg text and looking at the Holmberg safe would think that it has a front wall. Applicants believe that perhaps the door in the Holmberg safe may be obscuring the view of the Examiner and, therefore, Applicants have reproduced a facsimile of the Holmberg safe below, but without the door.

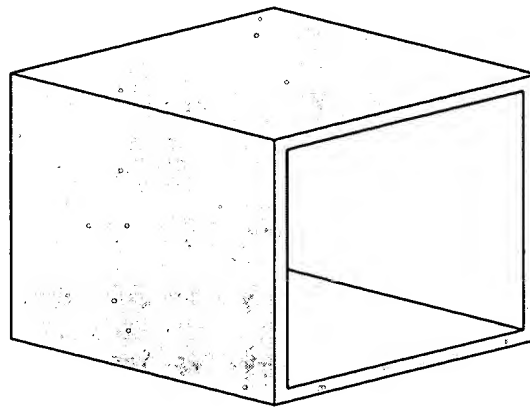


Figure 1

As can be seen, without the door in the way, the Holmberg safe clearly does not have a front wall, as that term is ordinarily used and understood. **Applicants respectfully submit that if the Examiner were to put this question to any person of ordinary skill in the art, he will get exactly the same negative answer.** Perhaps in some abstract and hyper-technical sense the claimed front wall of the invention might be construed to cover the edges of the four walls of the Holmberg safe, but such a stretched and contorted meaning is not the ordinary and accustomed one that would be ascribed by a person of ordinary skill in the art.

Further, even assuming for the moment that the edges of the four walls of the Holmberg safe may be considered to form a so-called "front wall," the Holmberg safe does not have a door

frame to which the door is mountable. To the contrary, the door of the Holmberg safe is attached directly to one of the walls. Perhaps the edges of the walls may be considered to “frame” the door, but that is far different from having a door frame. Applicants respectfully submit that if the Examiner purchased a new house, and instead of a door frame, the homebuilder simply attached the front door directly to the wall, the Examiner would immediately and strenuously object. The same logic should apply here. And in any case, the edges of the four walls already form the so-called “front wall” according to the Examiner, so how can they now also form the door frame.

Finally, the Holmberg safe is not even a vault, much less a walk-in vault. As explained above, the term “walk-in” when used with the term vault has a particular meaning to those skilled in the art. (See also, e.g., walk-in closet, walk-in freezer, etc.) No person of ordinary skill in the art would use the term “walk-in” to refer to a compartment that is not big enough for an average size adult to walk into. This notion is reinforced in Holmberg wherein nowhere are the terms “walk-in” and “vault” disclosed, suggested, or otherwise used to describe the safe. To the contrary, Holmberg uses terms such as furniture, filing cabinets, boxes, and similar articles. Thus, Applicants respectfully submit that no person of ordinary skill in the art would interpret the Holmberg safe as disclosing a “walk-in” vault as the Examiner has done.

Accordingly, for at least the reasons stated above, Applicants respectfully submit that Holmberg does not anticipate the claimed invention.

There Is No Motivation to Combine Holmberg and Speer

“When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness.” *In re Sang Su Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1443 (Fed. Cir. 2002). “There are three

possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.” *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998). The mere fact that a device in a cited reference could have been modified to yield a device within the claimed invention does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Gordon*, 221 USPQ 1125, 1127 (Fed. Cir. 1984). The Examiner can satisfy the burden of showing obviousness of the modification **“only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.”** *In re Fritch*, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (emphasis added).

In the present case, the Examiner urged that it would have been obvious for one skilled in the art to modify the Holmberg safe with hooks as taught by Speer in order to be able to hoist the safe. Applicants respectfully disagree. First of all, there is no problem whatsoever that can be gleaned from the text of Holmberg or from the knowledge of those skilled in the art that would motivate the skilled artisan to modify the Holmberg safe with integrated hooks.

Secondly, Holmberg and Speer are in completely unrelated fields of endeavors. Whereas Holmberg is directed to the secure storing of valuables, Speer is directed to oilfield services. Specifically, Speer is directed to a mobile workshop system for manufacturing, maintaining, inspecting, servicing, or testing downhole equipment. (See, e.g., Abstract.) Thus, even if a person having ordinary skill in the Holmberg art detected some drawback in the Holmberg safe that needed to be addressed, he would **not look in the Speer oil field services art for a solution.**

CONCLUSION

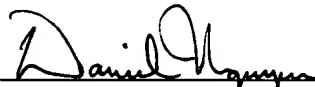
The rejections raised by the Examiner have been addressed, and Applicants submit that the claims are now in condition for allowance, which action is respectfully requested. If any questions or issues remain and the resolution of which the Examiner feels will be advanced by a conference with the Applicants' attorney, the Examiner is invited to contact the attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment, to Deposit Account No. 10-0447, Reference No. 41241-6USD1 (DGN).

Respectfully submitted,

JENKENS & GILCHRIST

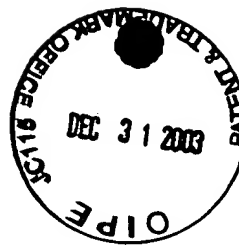
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APPENDIX A



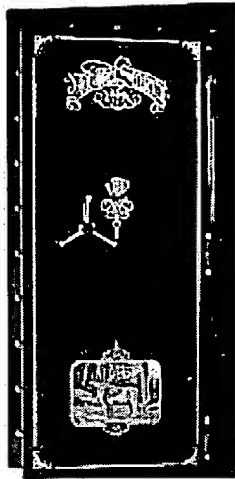
**Vault
Door**



RECEIVED

JAN 08 2004

GROUP 3600



Secure your custom-built, walk-in security room with this full-size, external-hinge vault door (80" H x 34" W).

Features: 1" door edge with 3/8" reinforced steel plate; S&G lock, 24 locking bolts, ball-bearing hardplate and inside release mechanism.



Rough opening is 82" H x 38" W.

Weight is 1,060.

National Safe Features & Specifications & Prices

National Security Safes ★ Liberty Safes ★ Optional Accessories ★ Terms & Definitions ★ How to Contact Us

★ Our New Harley-Davidson Safes ★ Centurion Commercial Safes

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